

U.S. Appl. No. 10/552,925
Office Action date: May 31, 2007
Response date August 27, 2007August 24, 2007

Amendments to the Drawings:

The Appendix includes changes to the figures and new figures are provided as indicated below.

Attachment: All Formal Drawings, Figs. 1 - 26
 Annotated Sheet Showing Changes to Figs. 3, 4, 5, 6, 7, 9 10, 11, 12, 14
 16, 19, 20, 21, 22, 23

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REMARKS/ARGUMENTS

Claims 59, 60, 63-73 and 75-90 have been amended, and Claims 91-110 have been added.

I. SECTION 112, SECOND PARAGRAPH REJECTIONS

Claims 66, 73 and 81 (and apparently 86) are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

The Examiner asserts that in Claim 66, lines 3-5 do not appear to make sense grammatically and claim 73 depends from claim 66. Claim 66 has been amended to clarify this passage.

The Examiner asserts that in Claim 81, the limitation “the selected software application” at lines 1-2 lacks antecedent basis. Claim 76 has been amended to recite “a selected software application.”

The Examiner asserts that in Claim 86, the limitation “the secondary operating system” at line 1 lacks antecedent basis. Claim 83 has been amended to recite “a secondary operating system.”

Therefore, Applicant requests that these rejections be withdrawn.

II. SECTION 102 REJECTIONS -- MAFFEZZONI

Claims 59, 60, 62-65, 71, 72, 83, 86 and 89 are rejected under 35 U.S.C. § 102(e) as being anticipated by *Maffezzoni* (U.S. Patent No. 6,901,493).

The Examiner clearly intended to reject Claim 74 rather than Claim 72.

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In the Office Action Summary, Claim 72 is listed as objected to and Claim 74 is listed as rejected.

In the Detailed Action, the Examiner asserts that “Regarding claim 72: Maffezzoni teaches: wherein the dynamic data files stored in the hidden partition are protected (entire document – the point of hiding the partition is to protect the files).” However, Claim 72 recites “wherein the dynamic data files in the hidden partition work as active data files for a software application and are continuously updated” whereas Claim 74 recites “wherein the dynamic data files stored in the hidden partition are protected.” Thus, the Examiner is referring to Claim 74 rather than Claim 72.

In the Allowable Subject Matter, the Examiner indicates that “Claims . . . 72 . . . are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.”

Thus, the Examiner has indicated that the Claim 72 recites allowable subject matter and inadvertently rejected Claim 72 with the intention of rejecting Claim 74.

Claim 59 has been amended to rewrite Claim 72 in independent form including all limitations of the base claim and any intervening claims, which the Examiner indicated as allowable.

Claim 83 has been amended to rewrite Claim 85 in independent form including all limitations of the base claim and any intervening claims, which the Examiner indicated as allowable.

Therefore, Applicant requests that these rejections be withdrawn.

III. SECTION 103 REJECTION – MAFFEZZONI

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Claim 61 is rejected under 35 U.S.C. § 103(a) as being unpatentable over *Maffezzoni* in view of Official Notice.

Claim 59 has been amended to rewrite Claim 72 in independent form including all limitations of the base claim and any intervening claims, which the Examiner indicated as allowable.

Therefore, Applicant requests that this rejection be withdrawn.

IV. SECTION 103 REJECTIONS – MAFFEZZONI AND GUPTA

Claims 69 and 70 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Maffezzoni* in view of *Gupta* (U.S. Patent Application Publication No. 2003/0009752).

Claim 59 has been amended to rewrite Claim 72 in independent form including all limitations of the base claim and any intervening claims, which the Examiner indicated as allowable.

Therefore, Applicant requests that these rejections be withdrawn.

V. SECTION 103 REJECTIONS – MAFFEZZONI AND MICROSOFT

Claims 76, 81, 82, 84, 88 and 90 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Maffezzoni* in view of *Microsoft* (Microsoft Press Computer Dictionary, 1997, Microsoft Press, Third Edition, pg. 13).

Claim 76 has been amended to rewrite Claim 77 in independent form including all limitations of the base claim and any intervening claims, which the Examiner indicated as allowable.

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Claim 83 has been amended to rewrite Claim 85 in independent form including all limitations of the base claim and any intervening claims, which the Examiner indicated as allowable.

Therefore, Applicant requests that these rejections be withdrawn.

VI. SUBSTITUTE SPECIFICATION

The Substitute Specification replaces the Specification. Furthermore, the Substitute Specification amends the Specification to improve clarity as shown in the Substitute Specification – Changes Shown. No new matter has been added.

Applicant requests that the Substitute Specification be entered and the Examiner confirm entry in the next written communication.

VII. CLAIM AMENDMENTS

The Claims have been amended to improve clarity. No new matter has been added.

VIII. DRAWING AMENDMENTS

The Drawings have been amended at Figs. 3, 4, 5, 6, 7, 9, 10, 12, 14, 16, 19, 20, 21, 22, 23, 24, 25 and 26 to improve clarity. No new matter has been added.

The Appendix with amended drawing figures is attached hereto. The Appendix includes a Replacement Sheet and an Annotated Sheet Showing Changes for each amended figure.

In Fig. 3, “Y” has been inserted in the branch between blocks 3 and 5, an arrow has been inserted in the branch between blocks 3 and 4, and at block 4, “of” has been deleted.

In Fig. 4, at block 8, “content” has been changed to “contents” and “attribute” has been changed to “attributes”, at block 9, “recoverv” has been changed to “recovery” and at block 12, “window” has been changed to “Windows”.

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In Fig. 5, at block 15, “Analysis” has been changed to “Analyze”, “enviornment” has been changed to “environment” and “coomonly use” has been changed to “commonly used”, at block 16, “Anaysis” has been changed to “Analyze” and “ctreate” has been changed to “create”, at block 17, “unrecongise” has been changed to “unrecognized” and at block 31, “construct” has been changed to “construction”.

In Fig. 6, at block 22, “contructing” has been changed to “constructing”.

In Fig. 7, at block 30, “Filfullment” has been changed to “Fulfillment”.

In Fig. 9, at block 29, “Tvpe” has been changed to “Type”.

In Fig. 10, “Y” has been inserted in the branch between blocks 44 and 46.

In Fig. 12, at block 56, “present” has been changed to “presence”.

In Fig. 14, at block 64, “stored” has been changed to “store”.

In Fig. 16, at block 70, “classify” has been changed to “classified”, at block 71, “operation” has been changed to “operating”, at block 72, “classify” has been changed to “classified” and the box surrounding reference numeral 72 has been deleted, at block 73, “accessed” has been changed to “access” and at block 74, “File Modification Table” has been changed to “Send access file to operating system”.

In Fig. 19, at block 87, the vertical bar has been deleted and at block 89, “oartition” has been changed to “partition”.

In Fig. 20, at block 97, the vertical bar has been deleted, at block 99, “lrecording” has been changed to “recording”, “Y” has been inserted in the branch between blocks 101 and 102, “N” has been inserted in the branch between blocks 101 and 103 and at block 105, “file” has been changed to “files”.

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In Fig. 21, at block 112, "automatic" has been changed to "Automatically".

In Fig. 22, at block 115, "powered" has been changed to "Power".

In Figs. 23, 24, 25 and 26, the reference numerals have been deleted.

IX. NEW CLAIMS

Claims 91-105 have been added to set forth various features of the invention. No new matter has been added.

Claim 91 is Claim 67 rewritten in independent form including all limitations of the base claim and any intervening claims, which the Examiner indicated as allowable.

Claim 94 is Claim 68 rewritten in independent form including all limitations of the base claim and any intervening claims, which the Examiner indicated as allowable.

Claim 95 is Claim 75 rewritten in independent form including all limitations of the base claim and any intervening claims, which the Examiner indicated as allowable.

Maffezzoni discloses a computer backup system in which the operating system backs up itself, application files and user data files from a first partition on a hard drive to a second partition on the hard drive. The second partition is hidden from the user. Thereafter, if a crash occurs that prevents the computer from booting the operating system from the first partition, the computer boots the operating system from the second partition, and if necessary, restores the application files and user data files from the second partition.

After the computer boots the operating system from the second partition, diagnostic and repair applications can fix common problems, such as missing or damaged operating system files, file allocation table or registry corruption, bad boot blocks and partition tables, and virus-related problems, that prevent the computer from booting the operating system from the first partition.

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Claim 96 recites “a primary operating system that interacts with a user of the computer; a secondary operating system that is different than the primary operating system . . . the hidden partition and its content cannot be managed and cannot be accessed by the primary operating system, the user and any software application on the computer, and the hidden partition and its content is managed and accessed by the secondary operating system for software and data maintenance, back up and recovery for the computer.” Claim 106 recites similar limitations.

Maffezzoni fails to teach or suggest that the computer includes primary and secondary operating systems that are different from one another, in which the primary operating system interacts with the user but does not access the second partition, and the secondary operating system accesses the second partition. Instead, *Maffezzoni* employs a single operating system that both interacts with the user and accesses the second partition.

The Examiner asserts that “”Maffezzoni teaches . . . the at least one hidden partition and its content is neither manageable nor accessible by the computer’s operating system (col. 6, lines 1-14, Fig. 3 – hidden partitions are not accessible).”

The cited passage states as follows:

FIG. 3 is a flowchart diagram 104 illustrating in more detail the method operations performed in operation 104 shown in FIG. 2 in accordance with one embodiment of the invention. In operation 104a, the hard drive is prepared to define a second partition that is hidden from a user of the computer system. This hidden partition is used to store a guaranteed working copy of the operating system and, if desired, selected data for backup, as described below. The second partition on which the backup copy of the operating system is stored is preferably hidden from the user of the computer system to prevent the user from accidentally deleting important OS files that may cause startup failure. The functionality required to define a hidden partition of the hard drive may be built in to the backup system.

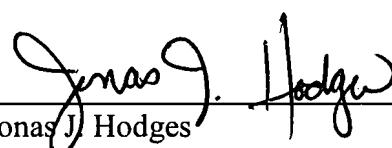
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The cited passage indicates that the second partition is hidden from the user. However, the cited passage fails to indicate that the second partition is hidden from the operating system. In fact, the operating system must access the second partition during backup and recovery. Thus, the Examiner's remark that "hidden partitions are not accessible" is too broad. The hidden partition must be accessible by backup and restoration routines even if inaccessible by the user.

X. CONCLUSION

Should the Examiner find it necessary to speak with Applicant's attorney, the Examiner is invited to contact the undersigned at the telephone number listed below.

CHRISTIE, PARKER & HALE, LLP

By 

Jonas J. Hodges
Reg. No. 58,898
626/795-9900

JJH/sym

SYM PAS752129.2-* 08/24/07 10:53 AM



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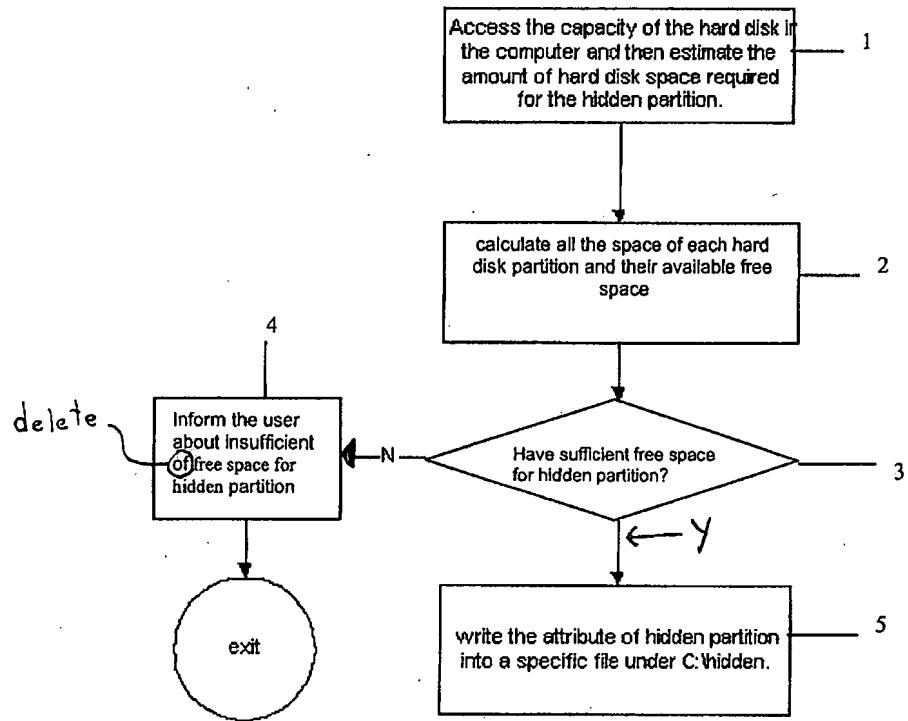


Figure 3

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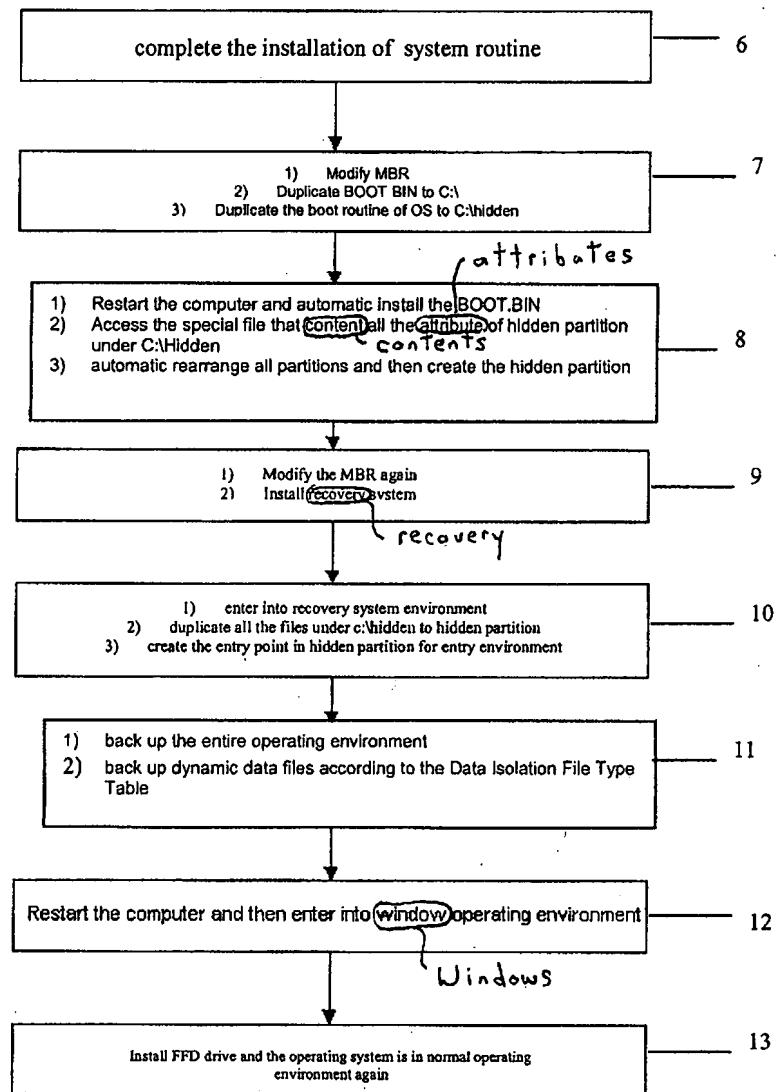


Figure 4

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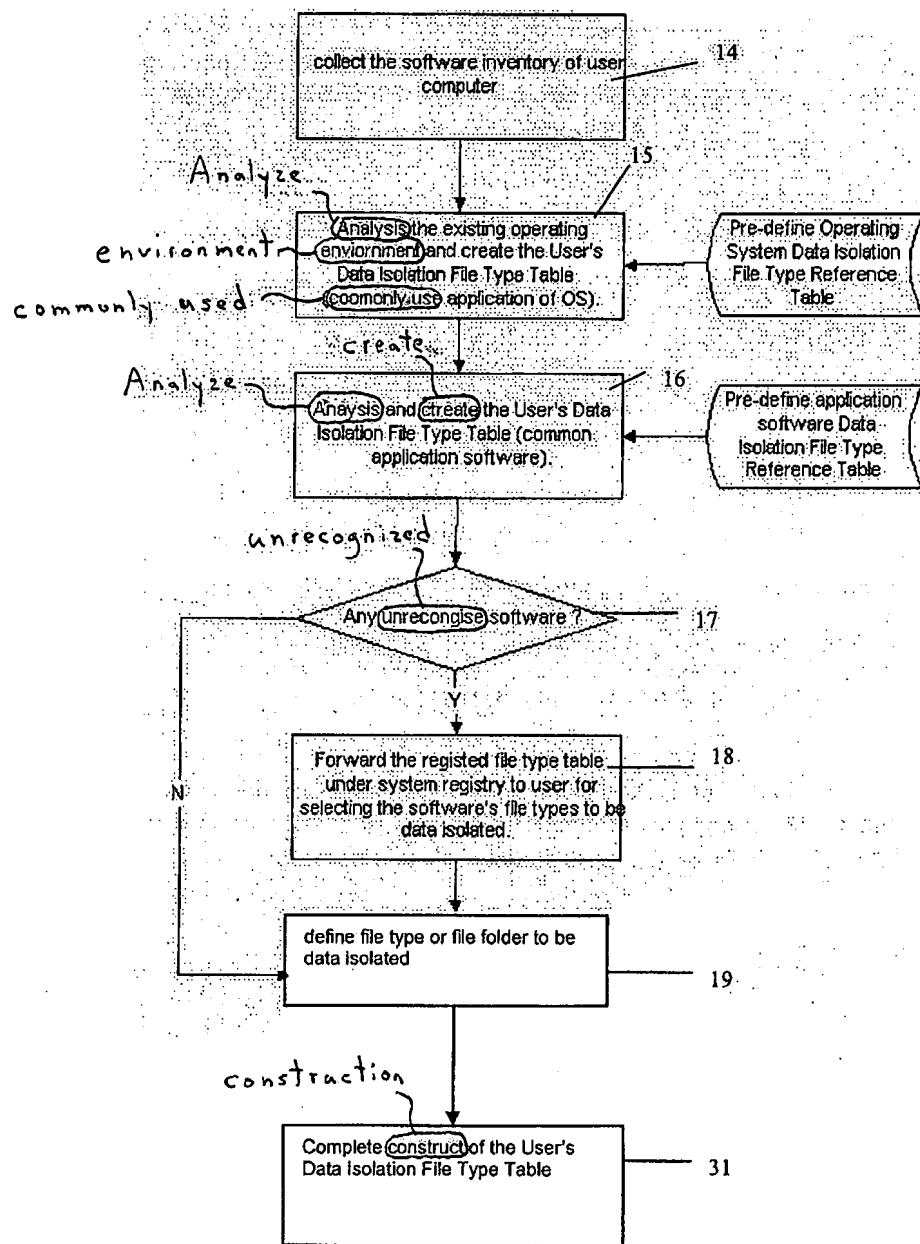


Figure 5

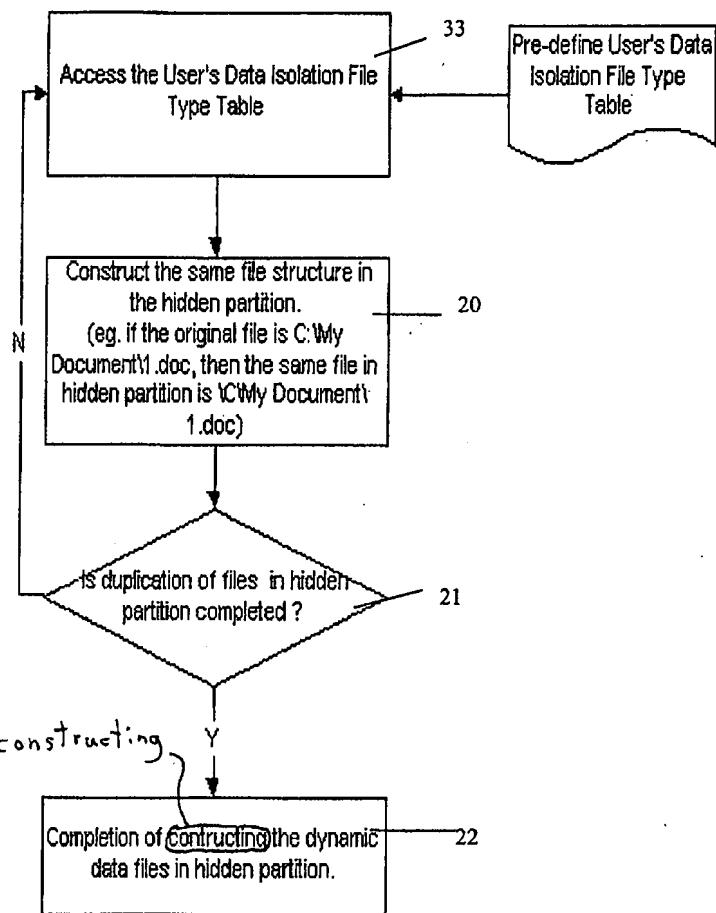


Figure 6

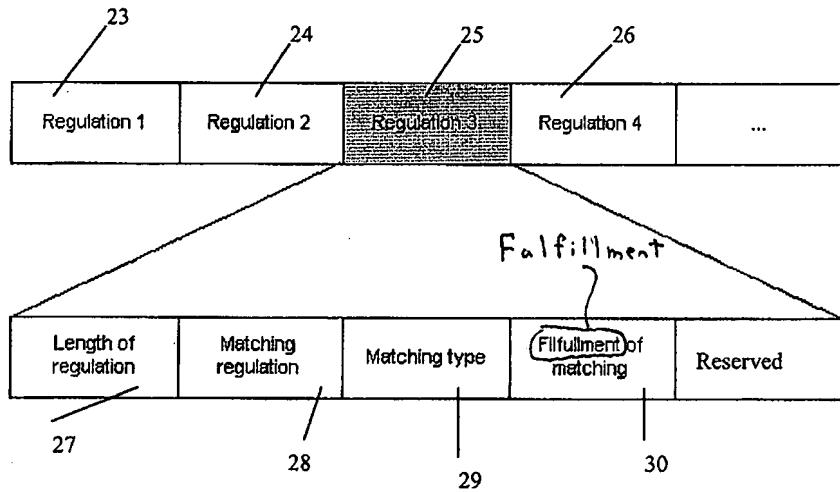


Figure 7

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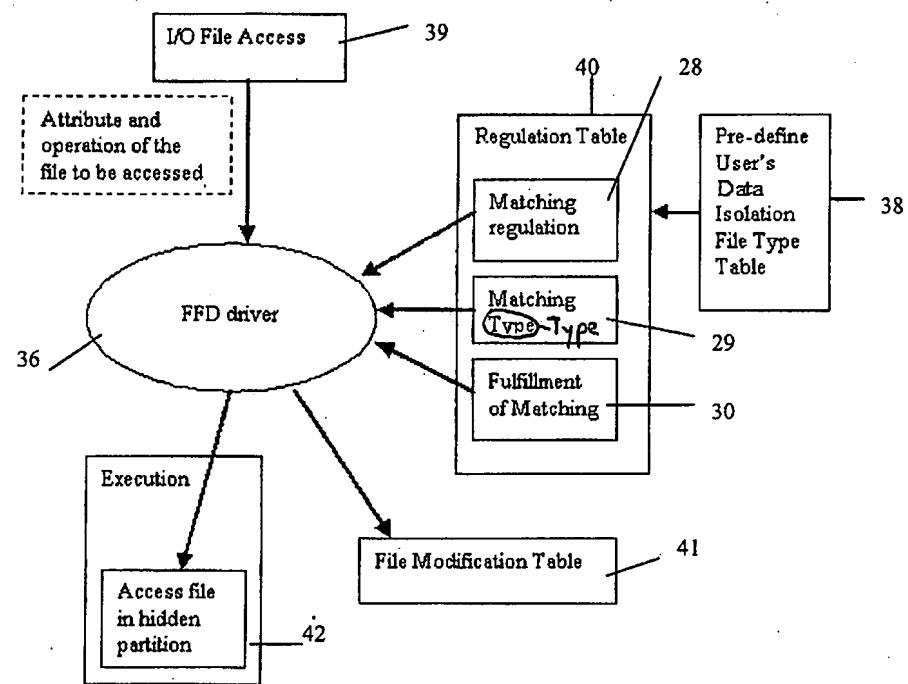


Figure 9

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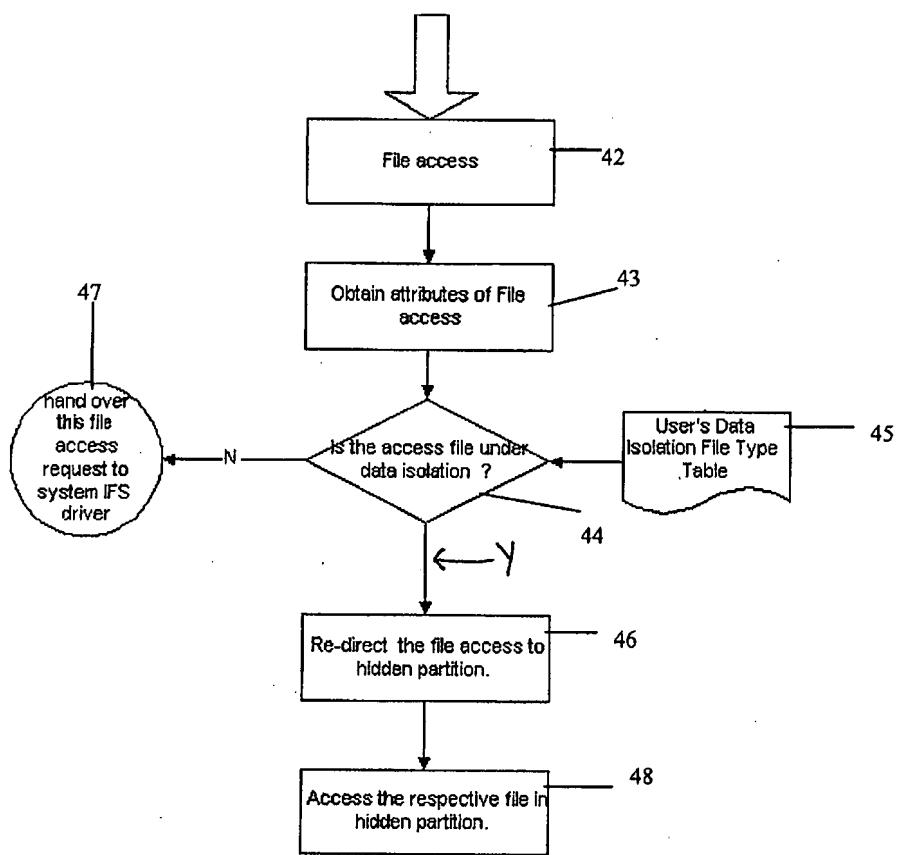


Figure 10

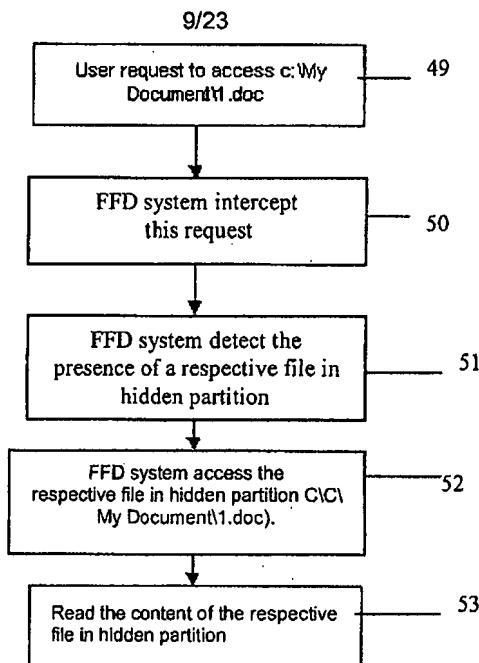


Figure 11

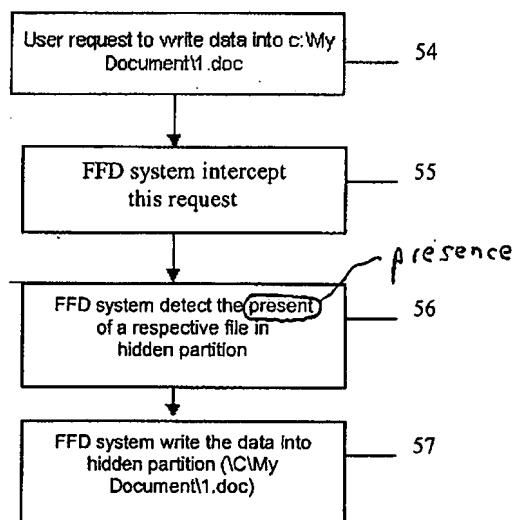


Figure 12

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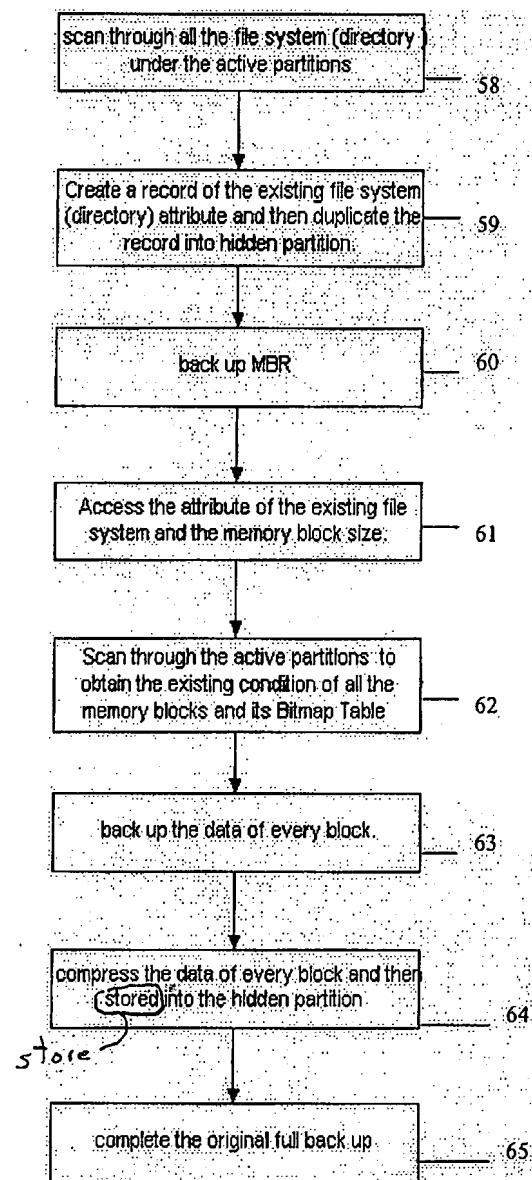


Figure 14

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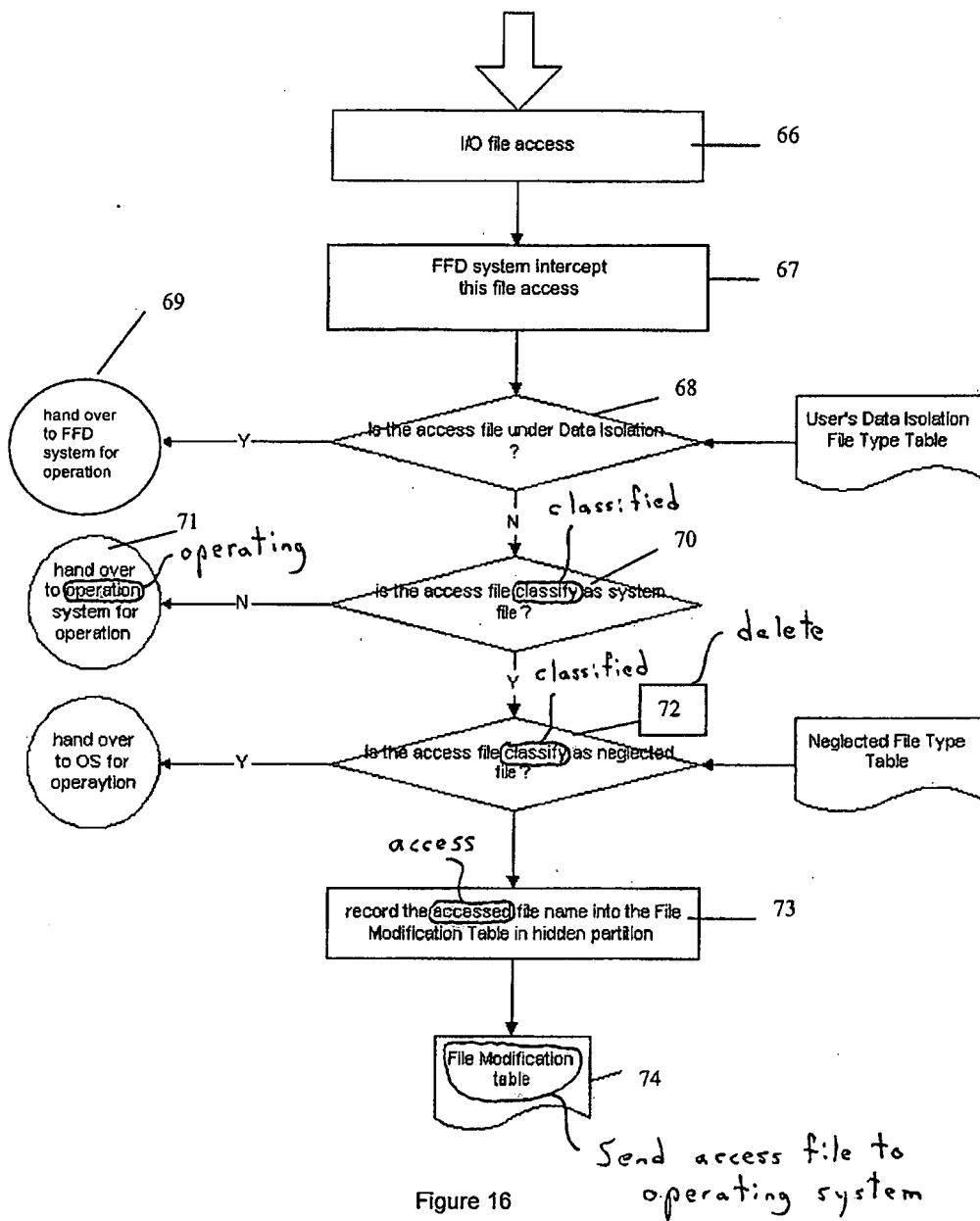


Figure 16

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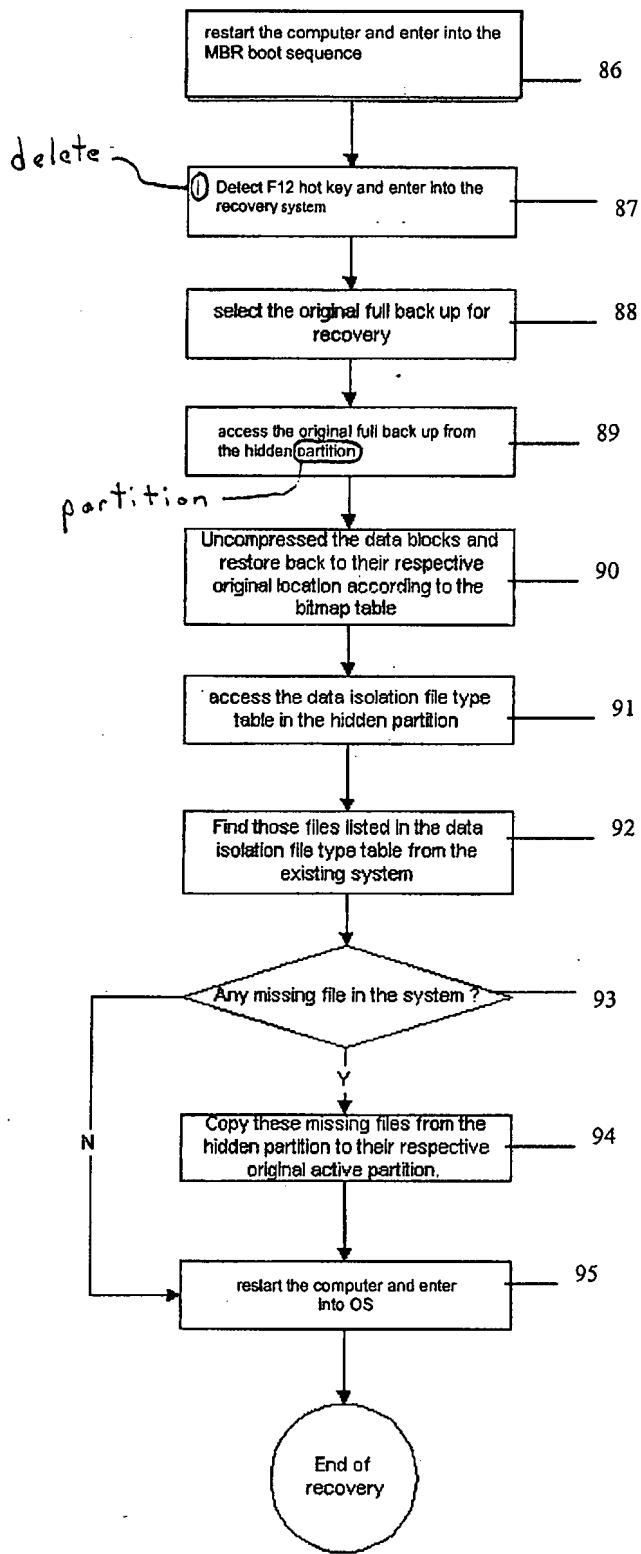


Figure 19

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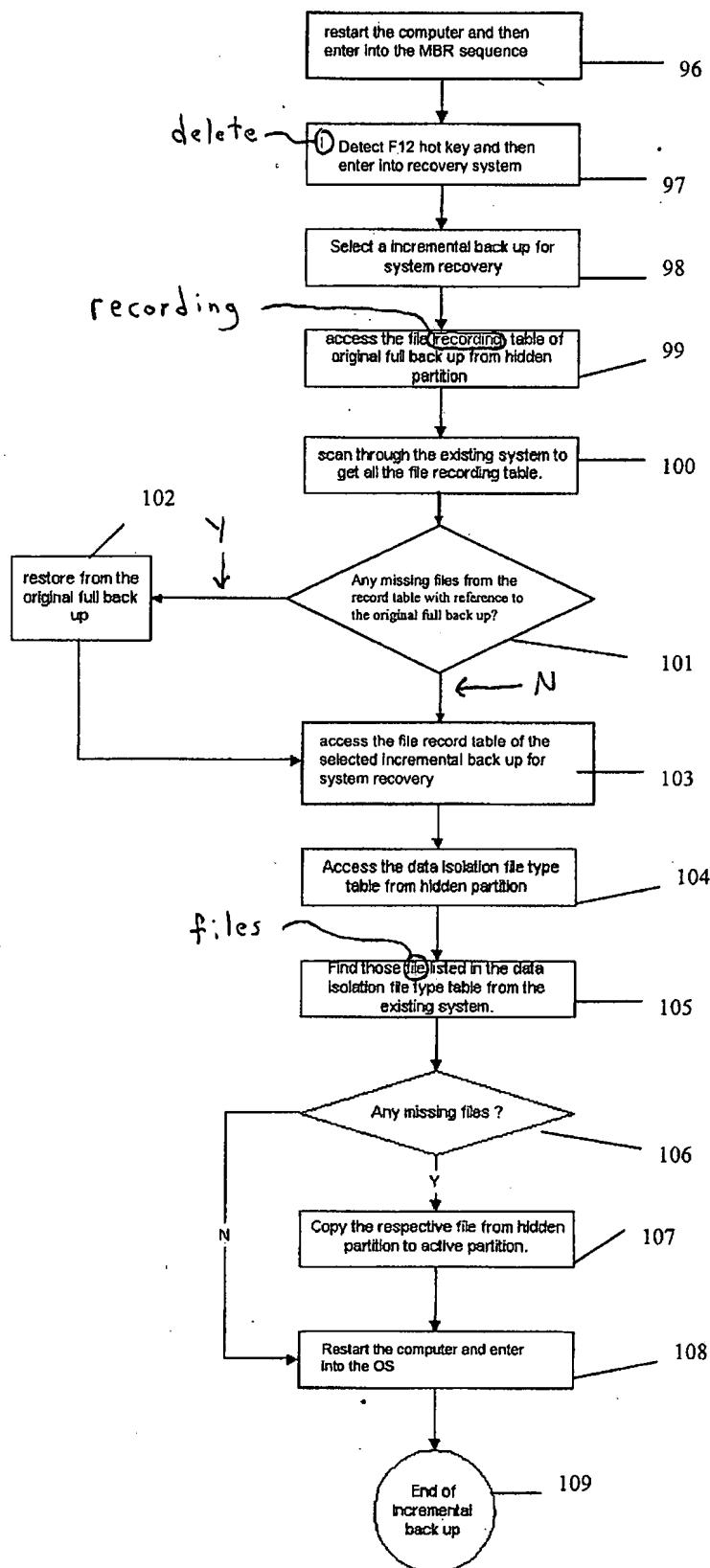


FIGURE 20

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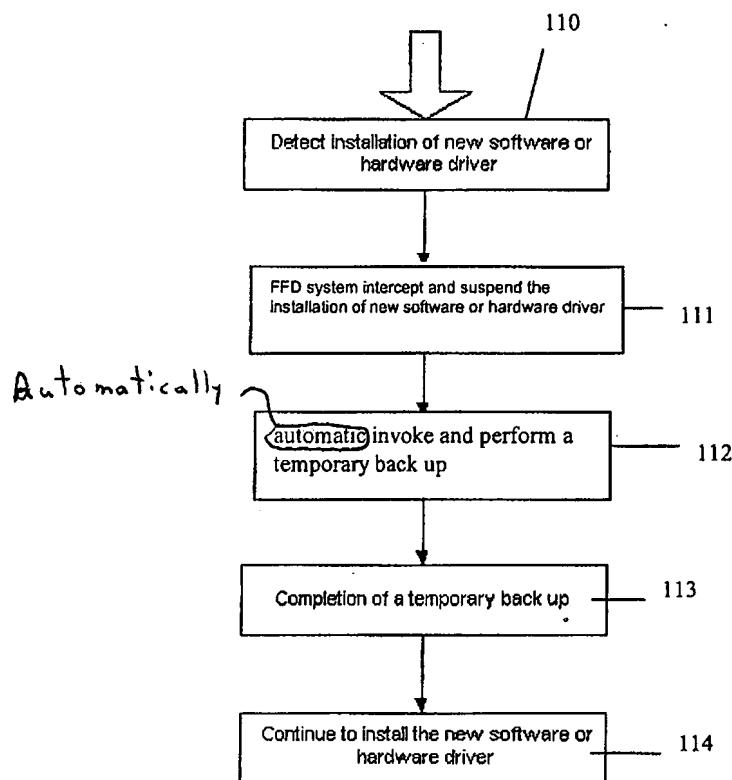


Figure 21

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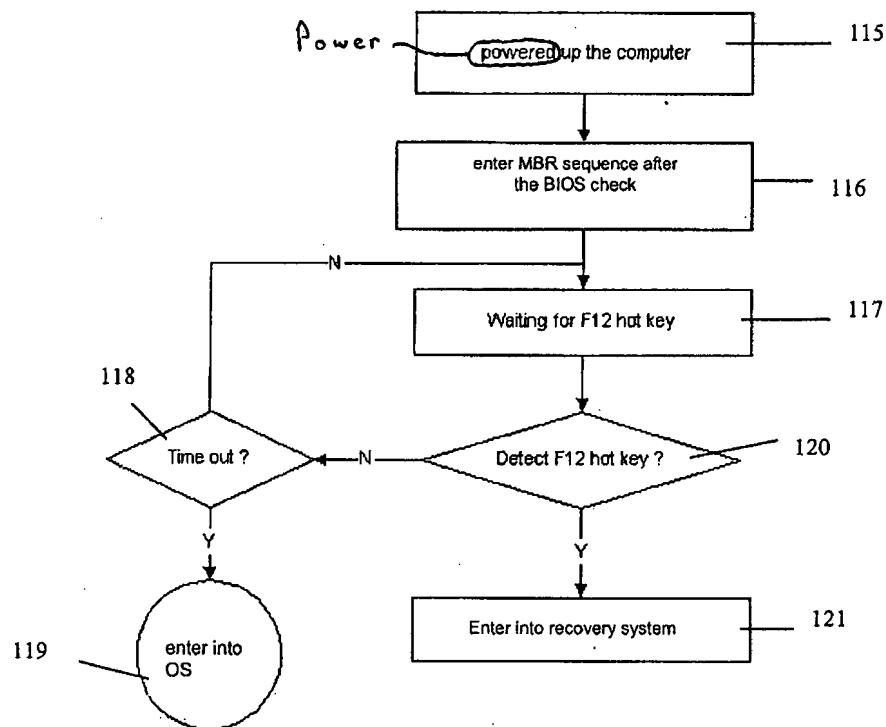


Figure 22

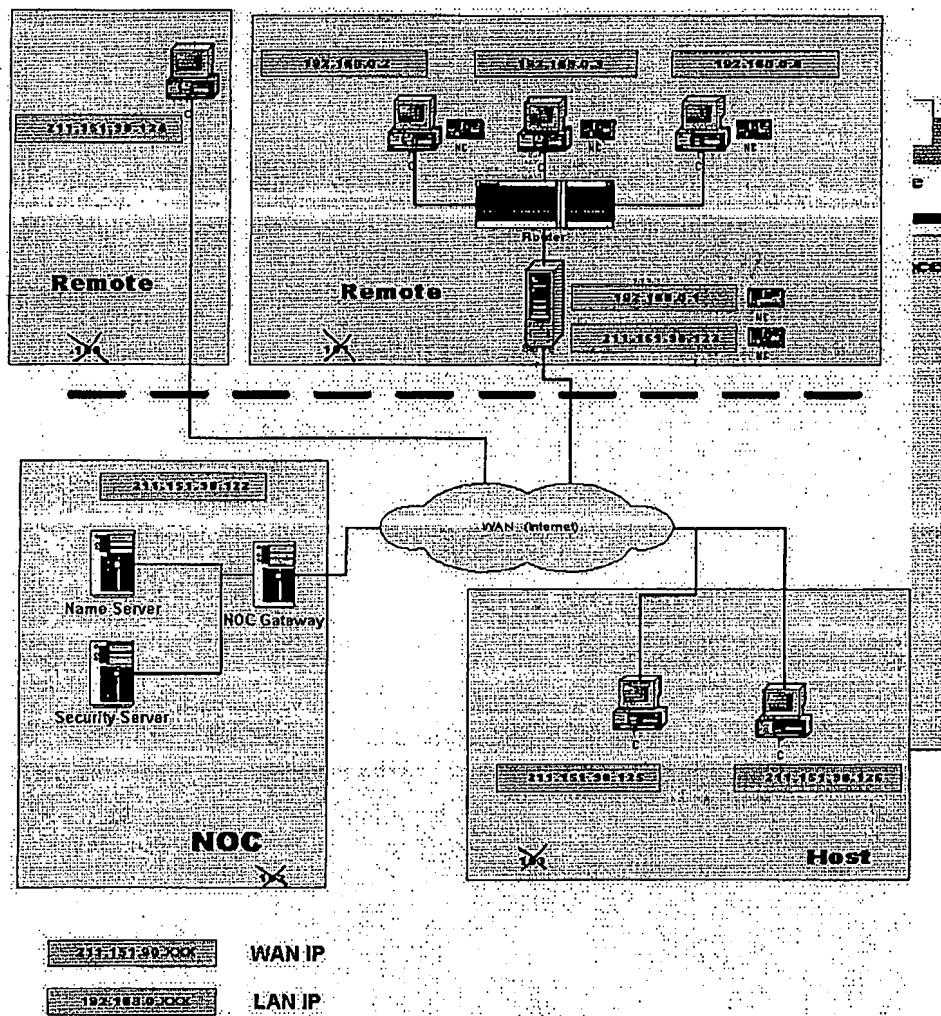


Figure 23

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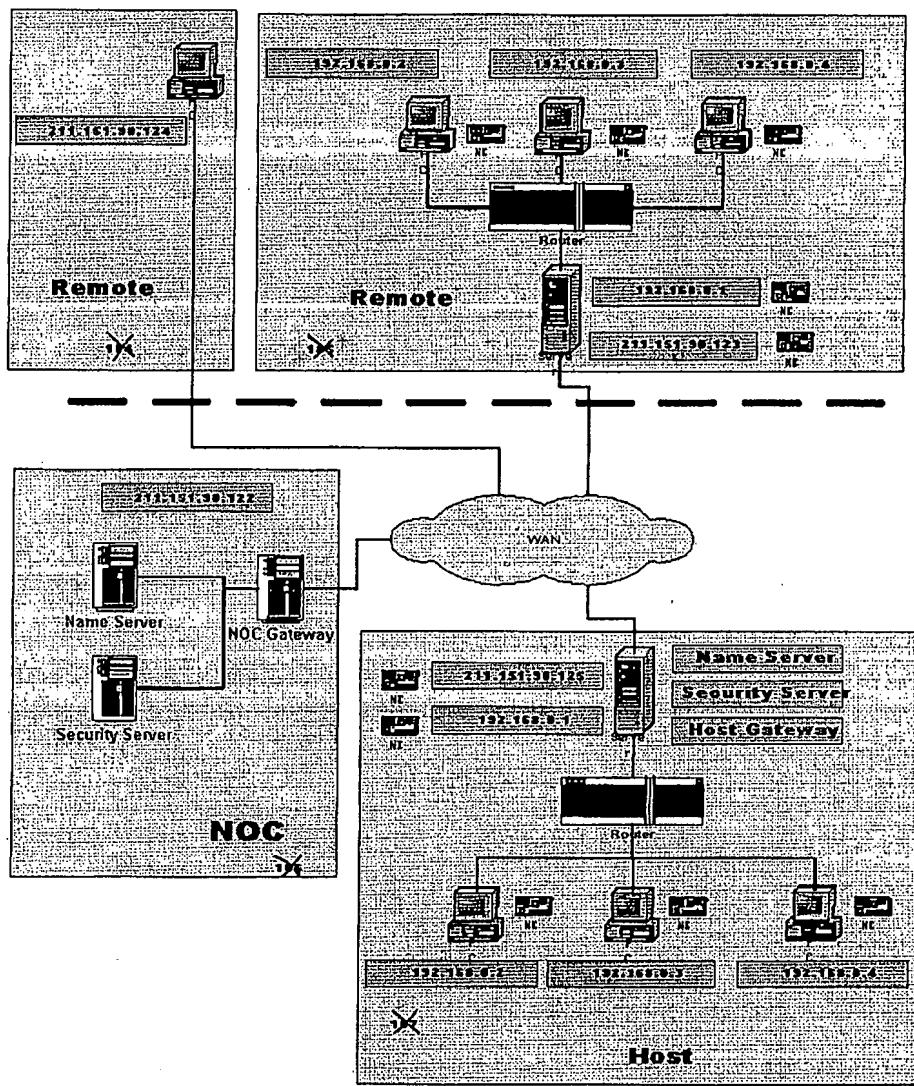


Figure 24

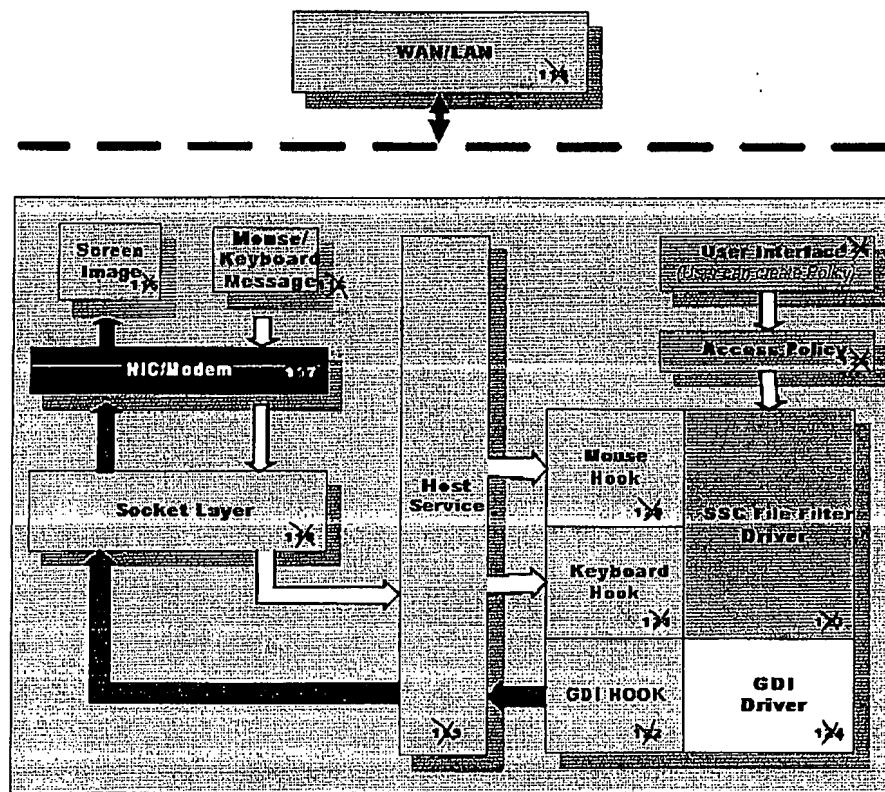


Figure 25

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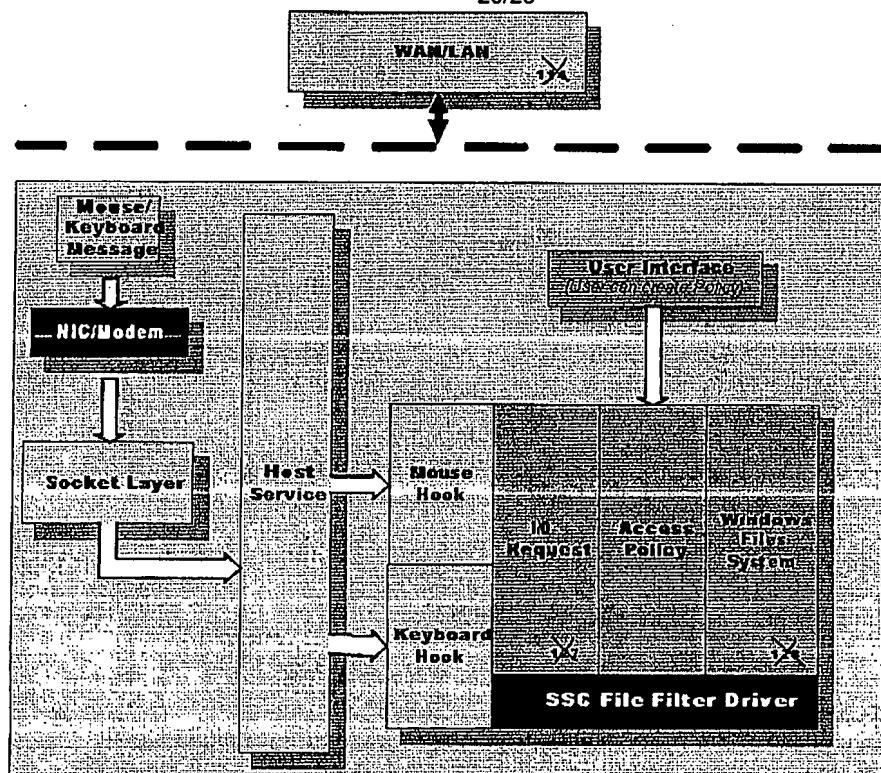


Figure 26

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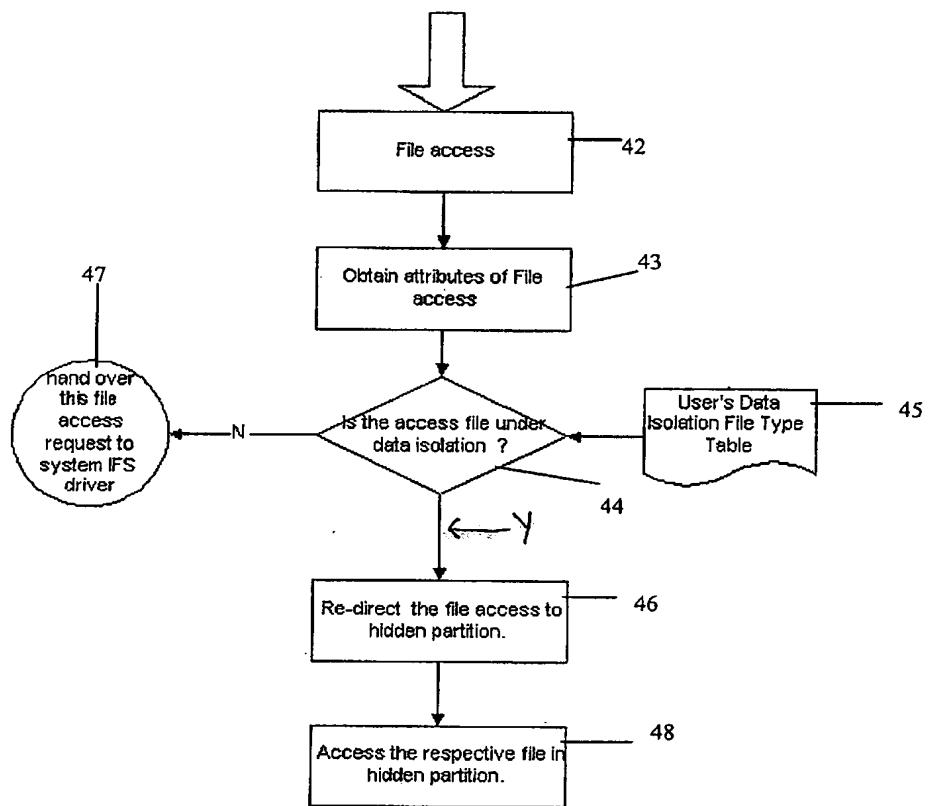


Figure 10

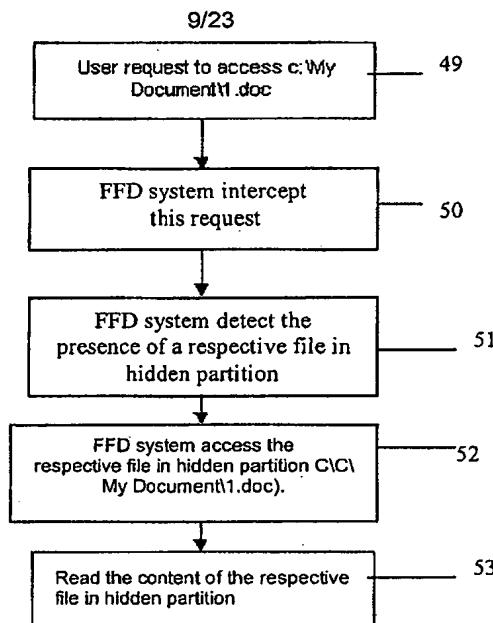


Figure 11

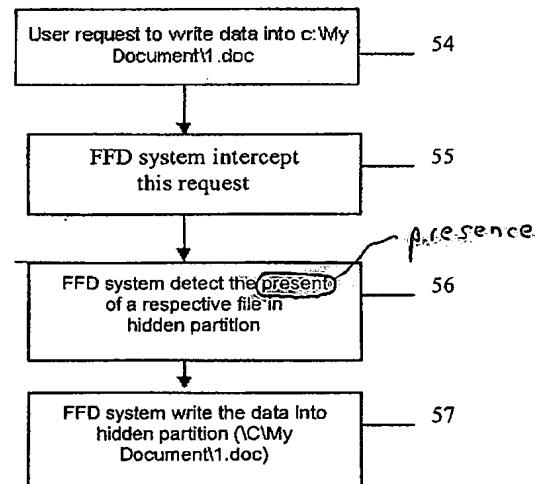


Figure 12

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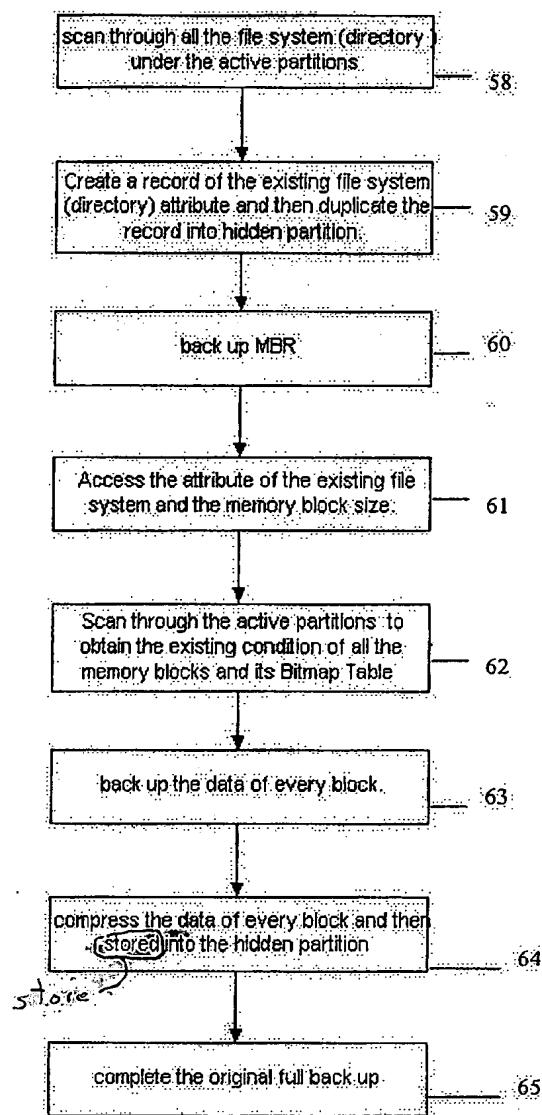


Figure 14

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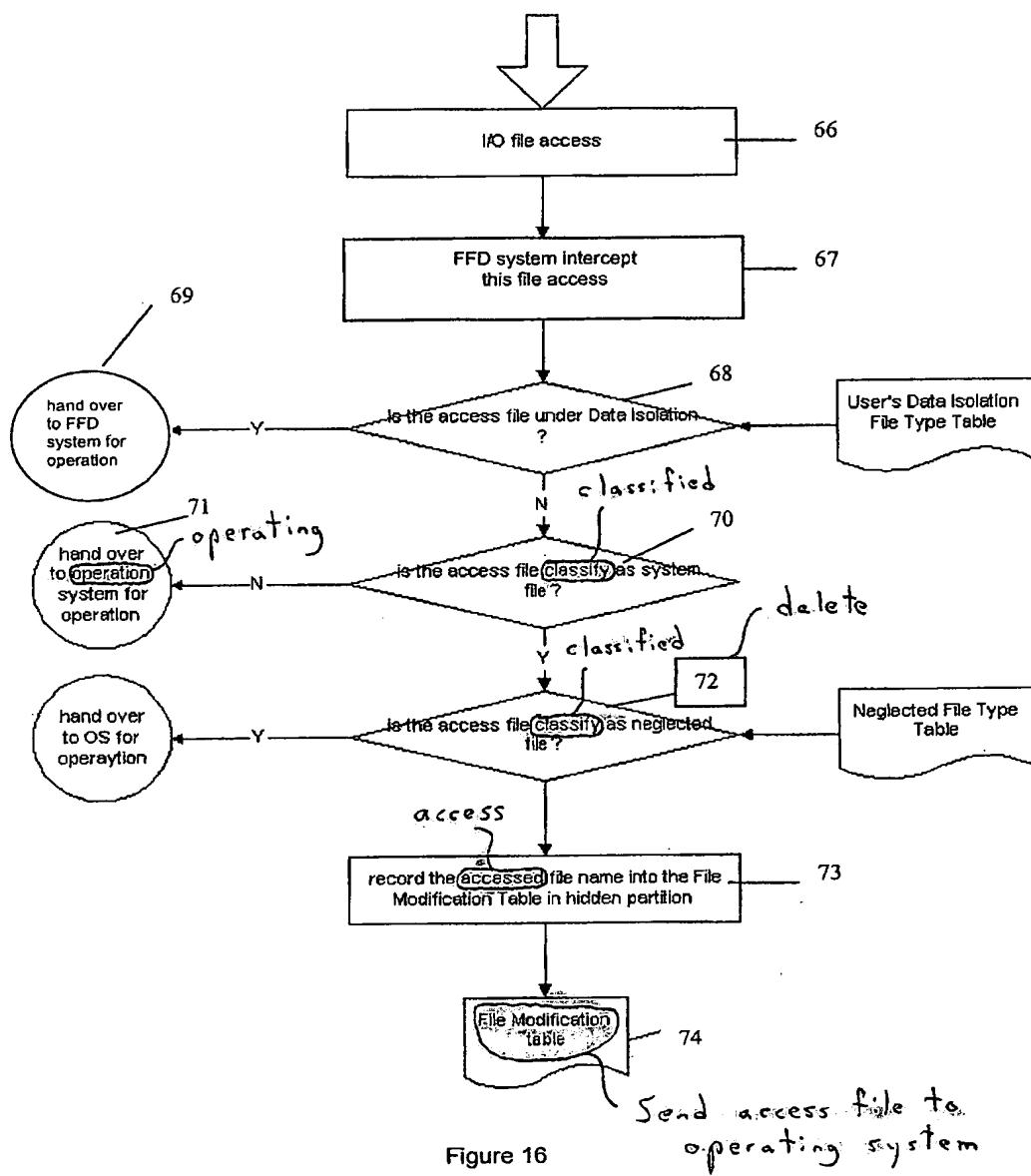


Figure 16

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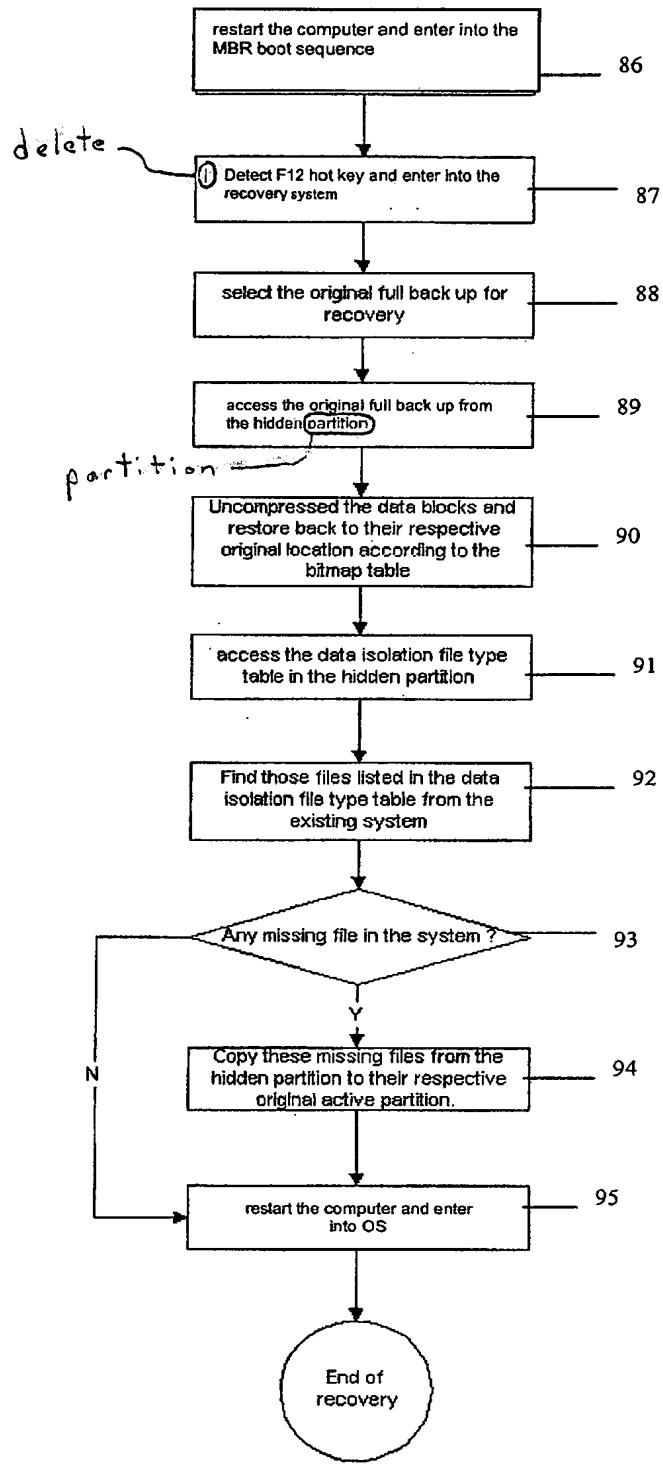


Figure 19

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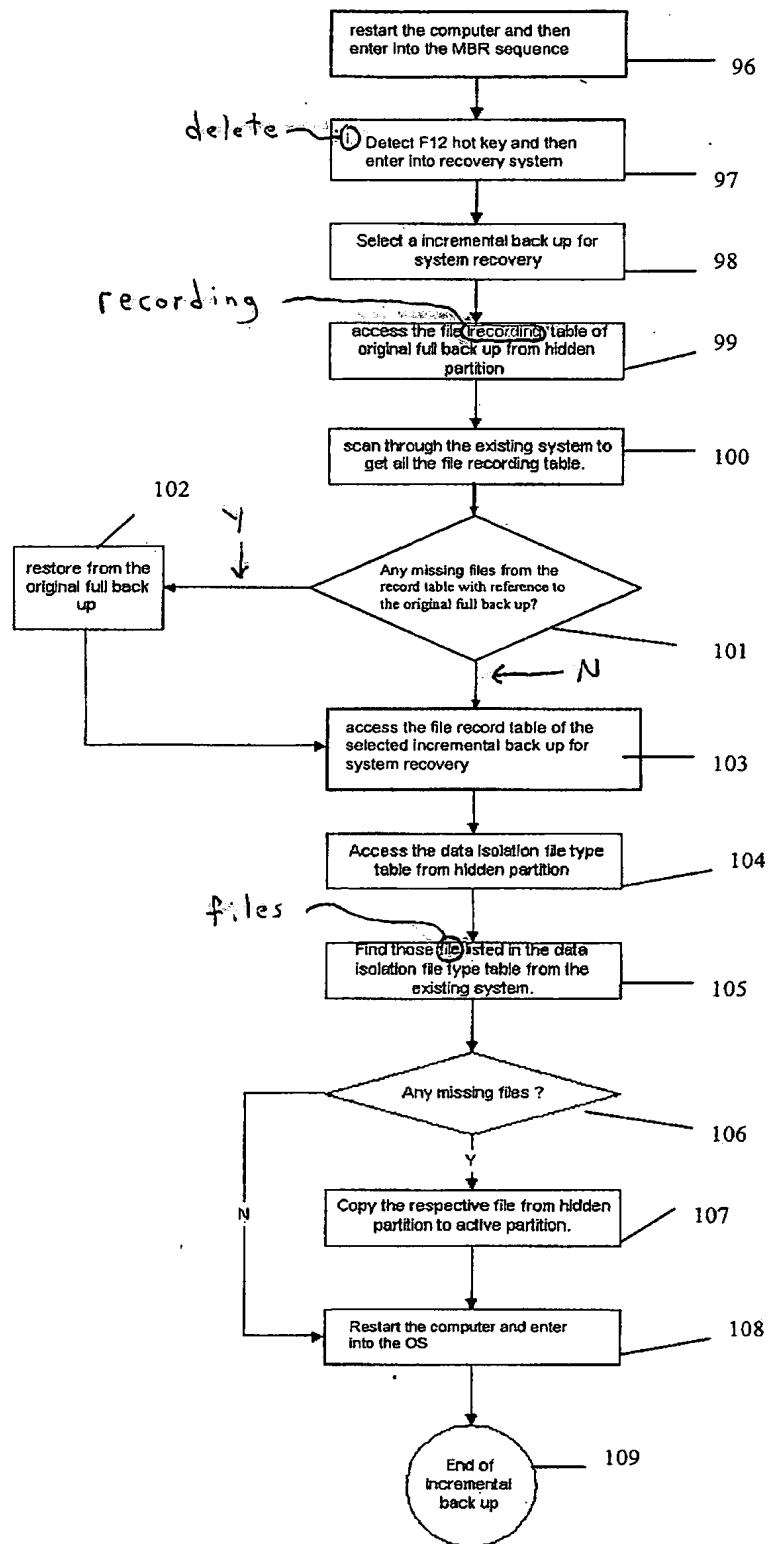


FIGURE 20

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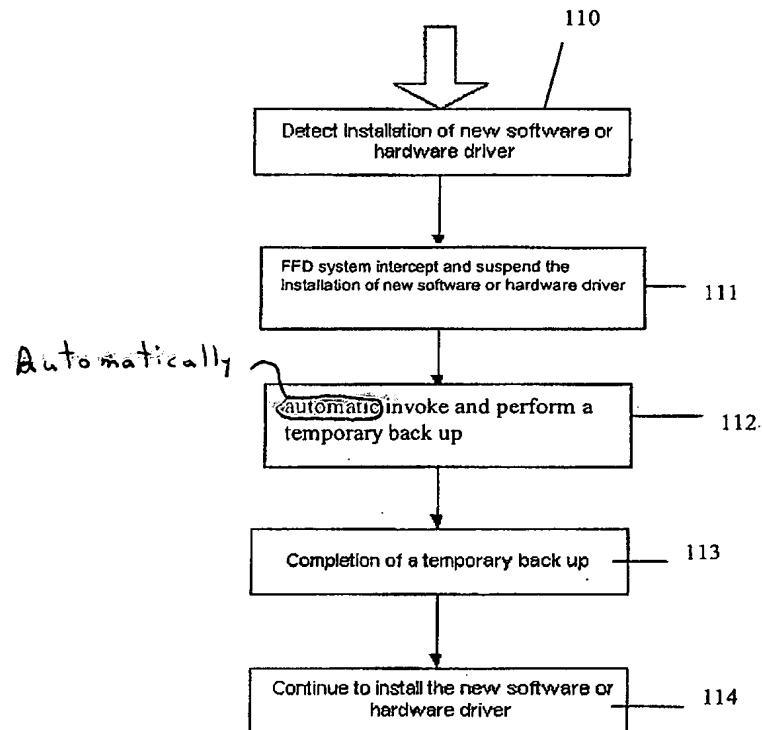


Figure 21

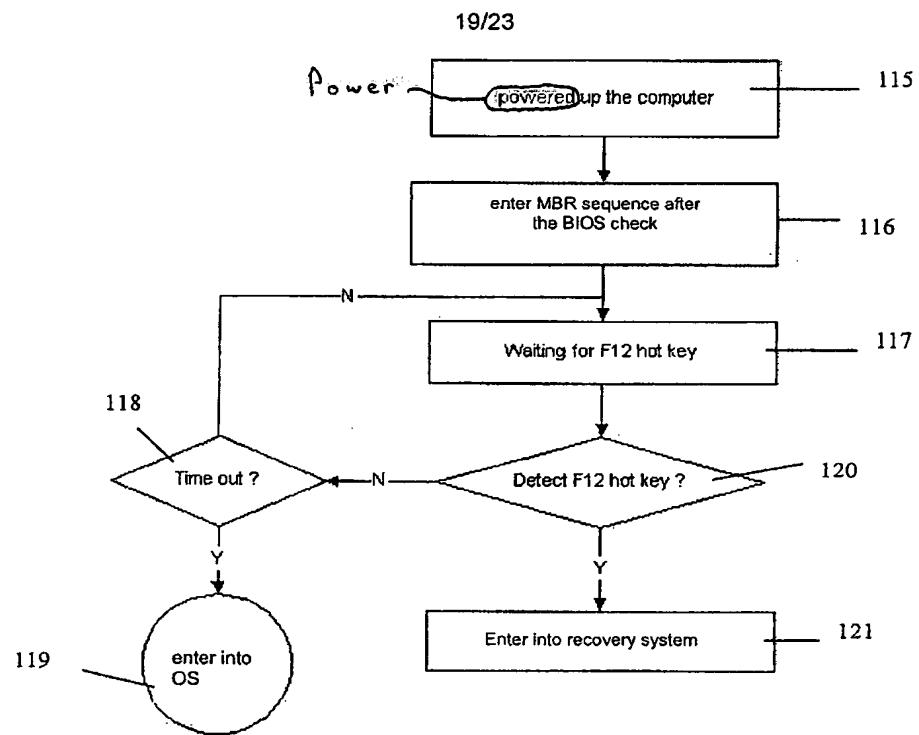


Figure 22

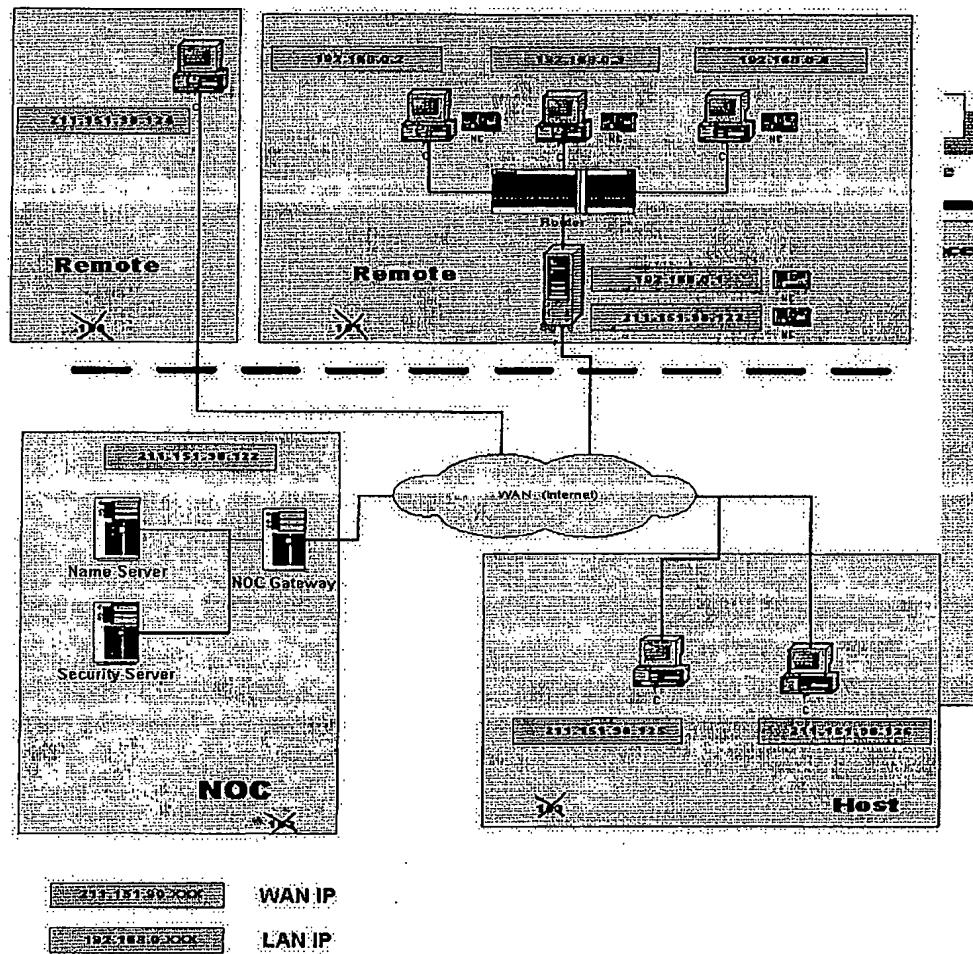


Figure 23

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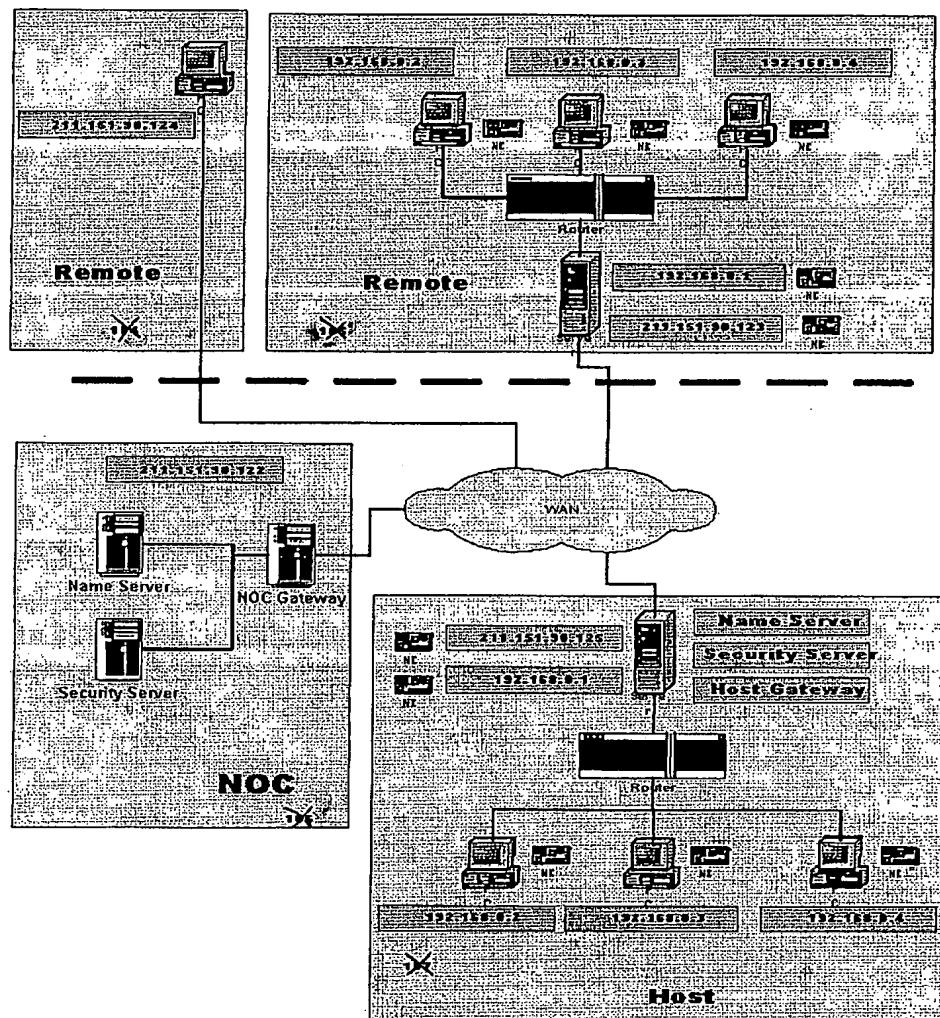


Figure 24

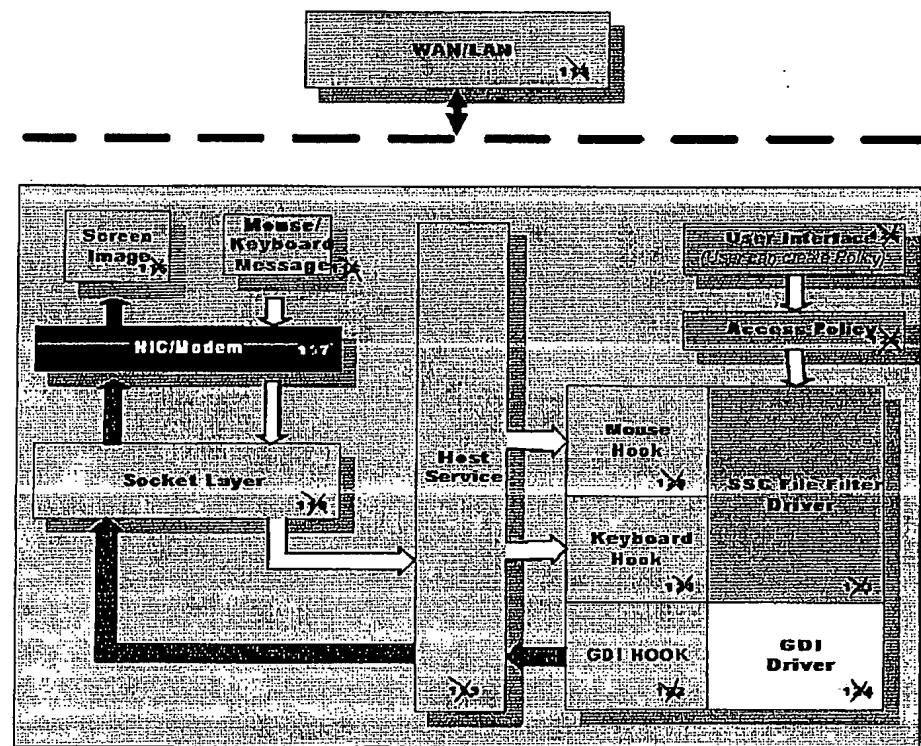


Figure 25

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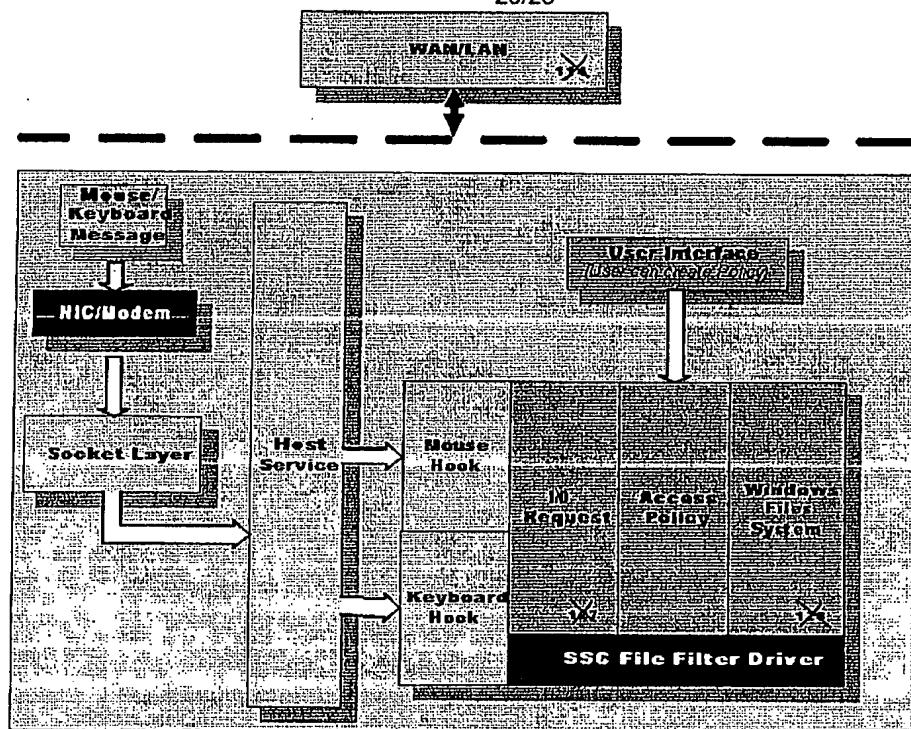


Figure 26

EXHIBIT A